

## Department of Veterans Affairs

## 814.407-3

opening and the authority to approve the acquisition after cancellation as provided in FAR 14.404-1(e) is delegated to the head of the contracting activity. The contracting officer will submit a D&F to the head of the contracting activity for signature.

[49 FR 12599, Mar. 29, 1984, as amended at 51 FR 23068, June 25, 1986; 52 FR 28560, July 31, 1987; 63 FR 69219, Dec. 16, 1998]

### 814.404-2 Rejection of individual bids.

(a) When a bid that is being considered for an award is found to be incomplete, e.g., all pages of the invitation have not been returned by the bidder, the contracting officer will take whichever of the following actions that is appropriate:

(1) Make a determination that the bid as submitted is in such a form that acceptance would create a valid and binding contract, requiring the contractor to perform in accordance with all of the material terms and conditions of the invitation. Such a determination may be based on the fact that the bid as submitted includes evidence that the offeror intends to be bound by all the material terms and conditions of the invitation.

(2) Make a determination that the bid as submitted is in such form that acceptance would not create a valid and binding contract.

(b) When a single bid is received in response to a solicitation, the offer shall not be rejected simply because it specifies a bid acceptance time which is shorter than that contained in the solicitation, unless a compelling reason exists for rejecting such a bid. Insufficient time to properly evaluate an offer shall be considered a compelling reason for rejection; however, the contracting officer will first request the offeror to extend the acceptance date of the bid to allow for proper evaluation.

NOTE: In those cases where more than one bid is received, an individual bid which is not in compliance with the Government's bid acceptance time shall be rejected as non-responsive since consideration of such an offer would unfairly disadvantage other bidders.

### 814.404-70 Questions involving the responsiveness of a bid.

Questions involving the responsiveness of a bid which cannot be resolved by the contracting officer may be submitted to the Comptroller General through the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Administration Team, or the Chief Facilities Management Officer, Office of Facilities Management, as appropriate. Pertinent documentation must accompany the submission.

[49 FR 12599, Mar. 29, 1984, as amended at 54 FR 40063, Sept. 29, 1989; 61 FR 11586, Mar. 21, 1996; 63 FR 69219, Dec. 16, 1998]

### 814.407 Mistakes in bids.

#### 814.407-3 Other mistakes disclosed before award.

(a) In accordance with the provisions of the FAR 14.407-3(e), the authority of the Secretary to make the administrative determinations set forth in FAR 14.407-3 (a), (b), (c), and (d) is hereby delegated, without power of redelegation, to the Deputy Assistant Secretary for Acquisition and Materiel Management. This delegation in no way impairs the delegations contained in Comptroller General decision B-122003, dated November 22, 1954.

(b) When a bidder alleges a mistake in his or her bid prior to award, after complying with the provisions of FAR 14.407-3, the contracting officer will submit the complete file to the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Administration Team, for an administrative determination. Based upon the evidence submitted, the Deputy Assistant Secretary for Acquisition and Materiel Management will determine the action to be taken by the contracting officer. Prior to its release to the contracting officer, this determination will be submitted to the General Counsel (025) for approval. Pending receipt of the determination, no award shall be made.

(c) Based on the evidence, when the Deputy Assistant Secretary for Acquisition and Materiel Management believes that the case should be submitted to the Comptroller General for

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decision, he/she will prepare the submission and forward it to the Comptroller General through the General Counsel (025). The decision of the Comptroller General will be furnished to the contracting officer by the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Administration Team. A copy of each such decision will be furnished to the General Counsel (025).

[49 FR 12599, Mar. 29, 1984, as amended at 54 FR 30044, July 18, 1989; 61 FR 11586, Mar. 21, 1996. Redesignated and amended at 63 FR 69219, Dec. 16, 1998]

#### **814.407-4 Mistakes after award.**

(a) When a contracting officer corrects a mistake in bid pursuant to FAR 14.407-4(a), a copy of the contract amendment or supplemental agreement together with a copy of the contracting officer's determination will be forwarded to the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Administration Team Division.

(b) For mistakes in bid alleged after award, the contracting officer's proposed determination, prepared in accordance with FAR 14.407-4, will be forwarded to the General Counsel (025) through the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Administration Team, for legal coordination. The results of this coordination will be transmitted to the contracting officer by the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Administration Team. The final determination on the alleged mistake in bid after award will be made by the contracting officer.

(c) The Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Administration Team, will maintain the agency records of mistakes in bids after award required by FAR 14.407-4.

[49 FR 12599, Mar. 29, 1984, as amended at 54 FR 30044, July 18, 1989, as amended at 61 FR 11586, Mar. 21, 1996. Redesignated and amended at 63 FR 69219, Dec. 16, 1998]

#### **48 CFR Ch. 8 (10-1-05 Edition)**

#### **814.408 Award.**

##### **814.408-70 Award when only one bid is received.**

When only one bid is received in response to an invitation for bids, such bid may be considered and accepted if (a) the specifications used in the invitation were not restrictive, (b) adequate competition was solicited, (c) the price is reasonable, and (d) the bid is otherwise in accordance with the invitation for bids. Such determination will be made in writing, and included on or attached to the abstract of bids.

[49 FR 12599, Mar. 29, 1984. Redesignated at 63 FR 69219, Dec. 16, 1998]

##### **814.408-71 Recommendation for award (construction).**

(a) For Central Office contracts, the Chief Facilities Management Officer, Office of Facilities Management, after analyzing all bids received, will submit a memorandum to the Secretary (00) recommending award or other disposition of the project. A copy of each of the following will accompany the memorandum:

- (1) The invitation.
- (2) Each bid received.
- (3) The abstract.
- (4) Any other pertinent data.

(b) On facility level contracts, the Chief, Engineering Service, will analyze all bids received and submit to the contracting officer a memorandum recommending award or other disposition of the project. However, the final decision to accept or reject the lowest responsive bid and the determination as to the responsibility of a prospective contractor shall be made by the contracting officer alone.

[49 FR 12599, Mar. 29, 1984, as amended at 54 FR 30044, July 18, 1989; 54 FR 40063, Sept. 29, 1989; 61 FR 11586, Mar. 21, 1996. Redesignated at 63 FR 69219, Dec. 16, 1998]

##### **814.409 Information to bidders.**

(a) Prior to award, no information as to probable acceptance or rejection of any offer shall be given to any bidder or other person outside the Department of Veterans Affairs.

(b) Except as provided in paragraphs (c) and (d) of this section, information as to performance under contract or an accepted bid is not public information